

**REMARKS**

Applicant appreciates the Examiner's thorough consideration provided the present application. Claims 1, 7-16, 23-35, 27-29, 36-40, 44, and 45 are now present in the application. Claims 1, 27, 29, 39, 44, and 45 have been amended. Claims 41-43 have been cancelled. Claims 1 and 29 are independent. Reconsideration of this application, as amended, is respectfully requested.

**Reasons For Entry Of Amendments**

As discussed in greater detail hereinafter, Applicant respectfully submits that the rejections under 35 U.S.C. § 112 and 103(a) are improper and should immediately be withdrawn. Accordingly, the finality of the Final Office Action mailed on June 22, 2004 should be withdrawn.

If the Examiner persists in maintaining his rejections, Applicant submits that this Amendment was not presented at an earlier date in view of the fact that Applicant is responding to a new ground of rejection set forth in the Final Office Action. In accordance with the requirements of 37 C.F.R. §1.116, Applicant respectfully requests entry and consideration of the foregoing amendments as they remove issues for appeal.

**Claim Objections**

Claims 1, 29, 39, and 45 been objected to due to minor informalities. Claims 1, 29, 39, and 45 have been amended to address the Examiner's

requested correction. Accordingly, this objection has been obviated and/or rendered moot.

**Claim Rejections Under 35 U.S.C. §112**

Claims 23-25, 27, 28, 43, and 44 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particular point out and distinctly claim the subject matter, which Applicant regards as the invention. This rejection is respectfully traversed.

In light of the foregoing amendments to the claims, as the Examiner will note, the related claims have been amended to address the Examiner's requested changes. Accordingly, claims 23-25, 27, 28, and 44 now definite and clear. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, are therefore respectfully requested.

**Claim Rejections Under 35 U.S.C. § 103**

Claims 1, 7-10, 12, 29, 36, and 40-43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Reber, U.S. Patent No. 6,110,748. Claims 11, 13, 14, 27, 37, and 44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Reber in view of Gordon, U.S. Patent No. 5,892,577. Claims 15 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Reber in view of Dermers, WO 98/12599. Claims 23-25, 28, and 45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Reber in view of Ekin, Clinical Chemistry, Vol. 37, no 11, pp. 1955-1967. Claims 38 and 39

stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Reber in view of Gordon and Virtannen, U.S. Patent No. 6,342,349. These rejections are respectfully traversed.

In light of the foregoing amendments to the claims, Applicant respectfully submits that these rejections have been obviated and/or rendered moot. As the Examiner will note, independent claim 1 and 29 have been amended to address the Examiner's rejections. Claim 1 now recites "the means for rotating and the means for displacing being simultaneously directly connected to the member, the member being simultaneously rotatable and displaceable along a radius of the rotation of the member". Claim 29 now recites "the member being simultaneously rotatable and displaceable along a radius of the rotation of the member". Applicant respectfully submits that the above combinations of elements as set forth in amended independent claim 1 and 29 are not disclosed nor suggested by the references relied on by the Examiner.

Support of the above combinations of elements as set forth in amended independent claim 1 and 29 can be found on the paragraph beginning on page 16, line 11, the paragraph beginning on page 16, line 17, and the paragraph bridging pages 16 and 17 in the specification.

In particular, the specification discloses that the specimen 14 is scanned by the laser spot along a non-linear curve under the control of scanning means 18 comprising DC motor (see page 6, lines 13-14). The specification also discloses that the DC motor, which may be directly connected to the member through spindle 19, provides a drive mechanism that enables the disc 13 to be

rotated about an axis on the frame (see page 6, lines 17-19). Therefore, the specification fully supports the limitation of the means for rotating being directly connected to the member.

With regard to the means for displacing, the specification discloses that the deflecting means, which is part of the scanning means 18, is further provided so the disc 13 with the specimen 14 may be displaced along a radius of the disc and its circular movement; when the deflecting means moves the disc with the specimen along the radius, a non-linear curve comprising a number of concentric partly overlapping circular curves is formed on the disc 13 surface by the laser spot (see page 6, lines 31-34 and page 7, lines 1-3). Therefore, the specification discloses that the displacement along a radius of the disc and the circular movement occur simultaneously to provide for a non-linear scanning curve. Accordingly, the specification fully supports the limitation of "the means for rotating and the means for displacing being simultaneously directly connected to the member" recited in claim 1 and the limitation of "the member being simultaneously rotatable and displaceable along a radius of the rotation of the member" recited in claims 1 and 29.

In addition, FIG. 1 also provides support for the above combinations of elements as set forth in amended independent claim 1 and 29. As shown in FIG. 1, the scanning means 18 is directly connected to the member 17. As mentioned above, the specification discloses that the scanning means 18 comprises a DC motor (see page 6, line 14) and the deflecting means (see page

6, line 31). Therefore, the DC motor for rotating and the deflecting means for displacing are simultaneously directly connected to the member.

Reber discloses a molecular detection system including a device 20, a detector 38, a positioning mechanism 42 for the device 20, and a positioning mechanism 46 for the detector 38 (see FIG. 1). In particular, Reber teaches that the positioning mechanism 42 (the Examiner referred it to the scanning means) can include a rotary positioning mechanism (the Examiner referred it to the means for rotating) such as a spindle/turntable, and/or a translational positioning mechanism (the Examiner referred it to the means for displacing) such as a conveyor (see col. 4, lines 21-23).

However, the device 20 (the Examiner referred it to the member) in Reber can only be either on a spindle/turntable or on a conveyor and Reber does not teach that the spindle/turntable and the conveyor are simultaneously directly connected to the device 20. Accordingly, Reber fails to teach "the means for rotating and the means for displacing being simultaneously directly connected to the member" recited in amended independent claim 1.

In addition, although Reber teaches the positioning mechanism 42 can include a rotary positioning mechanism, and/or a translational positioning mechanism, Reber fails to teach "the member being simultaneously rotatable and displaceable along a radius of the rotation of the member" recited in amended independent claims 1 and 29.

With regard to the Examiner's reliance on Gordon, Dermers, Ekin, and Virtannen, these references have only been relied on for their teachings related

to the dependent claims of the present invention. These references also fail to disclose the above combination of the elements as set forth in amended independent claims 1 and 29. Accordingly, these references fail to cure the deficiencies of Reber.

Accordingly, none of those references individually or in combination teach or suggest the limitations of amended independent claims 1 and 29. Therefore, Applicant respectfully submits that all of the claims clearly define over the teachings of the references relied on by the Examiner.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103 are respectfully requested.

### **CONCLUSION**

It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

In the event the Examiner does not consider this application to be in condition for allowance, it is respectfully requested that this Amendment be entered for the purposes of Appeal. This Amendment should at least overcome the 35 USC 112 rejection and therefore simplify the issues for Appeal. Nonetheless, it should be unnecessary to proceed to Appeal because the instant application should now be in condition for allowance.

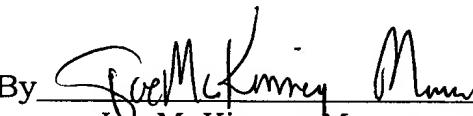
In the event there are any matters remaining in this application, the Examiner is invited to contact Joe McKinney Muncy, Registration No. 32,334 at (703) 205-8000 in the Washington, D.C. area.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant respectfully petitions for a two (2) month extension of time for filing a response in connection with the present application and the required fee of \$215.00 is attached herewith.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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